

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO

2014 NOV -7 PM 3:04

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

Moresetta C. Smart

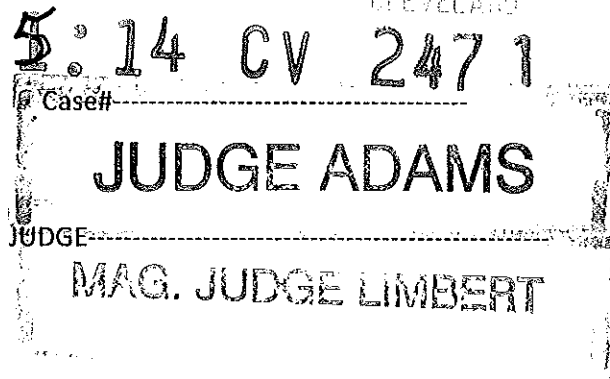
PLANTIFF

-vs-

Kathy Haupt, MD

Family Medicine of Stark County, and M.A. Shannon K R [ Doe]

*John Doe and Jane Doe added by*  
*Amendment*  
DEFENDANT(S)



COMPLAINT

1. At all times mentioned, herein after plaintiff was and still is a resident of Stark County, Ohio Plaintiff resides at, 1527 27<sup>th</sup> Street North West Canton Ohio 44709.
2. Defendant(s) is a Medical Doctor, Kathy Haupt, and Shannon K. R.[ Doe] M.A. works for and is employed at Family Medicine located in and still located in Stark County, Ohio the address is 6512 Whipple Ave. North West, North Canton Ohio 44720.
3. Family Medicine of Stark County is a medical facility located and still located at 6512 Whipple Ave. N.W. North Canton, Ohio 44720 in Stark County.

JURISDICTION

4. The jurisdiction of this Court is invoked pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e and the Equal Protection clause of the 14<sup>th</sup> Amendment to the U.S. Constitution 42 U.S.C. 1983 (85)

1. On November 7<sup>th</sup> 2013, I had a follow up appointment with Dr. Kathy Haupt. During the appointment I explained to her that I was there for a follow up from a car accident that happened on September of 2013. I also explained to her that on my previous appointment while accompanied by my husband I was seen by her physician assistant Jenny Gonzales and that she refused to prescribe physical therapy for my right hand which was injured in the car accident previously mentioned. Dr. Haupt reply was that "You're not here for a follow up; you're here for blood work". I said I'm not here for blood work, you just took my blood in June, and you said that the only issue I had was a vitamin D deficiency. And at that point she left the room and when she returned she stopped short of coming into the room and yelled out, PHI, or Personal Health Information and she said this loud enough where everyone within earshot could hear my personal medical information.
2. This is a violation of HIPAA. Then she walked away. At that point I got emotional and was ready to leave, I walked on the other side of the examination table to get my purse and coat to leave the room, as I had my back turned away from the door and when I went to turn around after picking those items up her medical assistant, Shannon rushed up behind me and struck me in the arm with an immunization gun and I heard was an air gas sound. She didn't wipe my arm off or warn me that I was about to get what was later described as a flu shot. When she did this I asked her, what was that, then she handed me a paper and said "it's a flu shot". And I said Dr. Haupt never said anything about a flu shot. I stood there in shock for about three minutes emotionally upset and traumatized at what had just happened being ambushed into a medical treatment that I knew nothing about wondering if I should sign the consent form that they handed me. I thought to myself that if something happened to me that there would be a paper trail showing I was given a fraudulent flu shot.
3. When I glanced at the paper, there on the right side was my name in print and there was a bar code running vertically along the paper. I used my left hand instead of my right to sign the paper, (I'm right handed. I didn't consent to that treatment because it was improperly administered. It was unsafe medical treatment; they didn't wipe my arm off, and a danger to my health and to the public the way it was administered, putting patients at risk and endangering patient's health intentionally. I asked her for a copy of the paper and she immediately left the room and never returned. As I walked out of the room Dr. Haupt was sitting in a chair and didn't say anything, I walked a few steps and turned around to ask her why she didn't explain to me that I was getting a procedure that I knew nothing about. At that point her medical assistant, Shannon blocked my path to Dr. Haupt so I couldn't question her about what happened. Dr. Haupt turned her head away and wouldn't even look at me. I left the area where the exam room were located and stopped at the front and asked for a copy of my medical records and at that point there was some confusion about me getting a copy of the paper or any medical records, They told me that Dr. Haupt said I could only have a limited amount of my medical records and I said I just got stuck in the arm with something and I want to know what it is. At that point I left the building. Since I received this so called flu shot I have had numerous

side effects. Hives, I have developed neuropathy. A few days later I returned with a tape recorder and demanded a release form to get my medical records, which I signed and then I was give the medical release form. And the next day Dr. Haupt sent me a letter in the mail telling me that I needed to get a new Doctor and that what I did was inappropriate. Since then I have requested to receive a copy of my medical records I also asked to review and correct the discrepancies in my records I was denied access in doing so. My records were sent in the mail unsecured. Upon inspection I noticed that part of my records had been tampered with and altered. The flu shot paper had been altered and the bar code tag along the side of the paper had been taking off. With the many symptoms I'm having I'm wonder what was in this so called "Flu shot" which they still won't disclose. I feel her actions and the employees actions are in violation of HIPAA, and there was an unauthorized disclosure of PHI in violation of HIPAA and misuse of PHI for personal gain and malicious harm. By failing to comply with the HIPAA regulations and conform to the HIPAA privacy rule in violation of HIPAA I believe Dr. Haupt is responsible for the HIPAA violations because she failed to properly educate, supervise and train her employees to be in compliance under HIPAA. And failed to have proper HIPPA policies and procedures in place. I also believe that her and her employee's actions were intended to defraud and mislead patient's medical care. And I also believe she is in violation of the food, drug and cosmetic act, which forbids alterations misbranding of drugs and or device which poses a threat to the public health. I believe also that their actions show unauthorized access unauthorized disclosure without the patients consent.

4. Abuse of the doctor patient relationship, breach of the doctor patient confidentiality, and intentionally harming patients. Assault and battery. Falsifying and altering medical records. Misuse of patients PHI without patients consent. Tampering with medical records, unsafe medical practices, incompetents and lack of hygiene in providing medical services, injuring patient (s), Insurance fraud (misrepresenting the type of treatment received by the patient, obtaining an improper payment from the patients insurance company for treatment that never occurred and obtaining payment for services that were never offered or provided. Violating patients' rights.
5. Failure to maintain accurate medical records, Doctor Haupt never disclosed conflict of interest which I'm entitled. I believe Dr. Haupt had an emotional attachment to my husband which is wrong. As I suffered emotional distress, unequal treatment, discrimination, and retaliation in the prevision of health care services. I think she is a danger to the health and safety of the public. Breach of trust, violating patients' rights by administering drugs other than for legitimate therapeutic purposes, placing patients at risk through fraud, deceit and misrepresentation with malicious intent. "HIPCRATIC OATH DO NO HARM". Medicare requires a doctors to be present and supervise patients treatment and or monitor treatment.
6. 1<sup>st</sup> Amendment Retaliation against patient for complaining about refusal or lack of treatment , P.A. Jenny G. [Car accident] 9-2013. Dr. Haupt allowed the unlicensed practice of medicine when an unsupervised medical assistant gave an injection to a patient who suffers from

fibromyalgia and who's, Immune system is already compromised making the pain of fibromyalgia worse. She also knew that I never would have agreed to take a flu shot. Because of my previous refusals which she has record of. She also knows I'm afraid of needles.

[Dr. Van ness] witness

7. Nov. 2014, Dr. Haupt or staff just recently sent personal health information to Attorney E. Burick, and her assistance Diane [Doe], third Party[s] which were only interested in my car incident, but papers were included about my personal childhood which I never discussed with her or her staff, that has nothing to do with a car incident. More patient injury. The discrimination and unequal treatment – Mr. Jeff Mauer, [330-704-3341] a former patient of Dr. Haupt was given the opportunity to return if he paid the money owed I believe he said it was 95 dollars or 100 dollars, for the 3 missed appointments, I missed [1] appointment and received a letter. I have been told the flu shot caused the injury, [hives, nerve damage to both my eyes, both hands and both feet and legs ... I feel this to be a Hate Crime. {Serious Patient Injury}. Race/gender/color/ or disability.

#### RELIEF

Grant this plaintiff a jury trial and subsequent declaration judgment against the Defendants, that their actions violated my rights guaranteed by the constitution of U.S. and the Equal Protection Clause of the 14<sup>th</sup> amendment to the U.S. Constitution. Grant this Plaintiff a judgment against the Defendant for compensatory and punitive damages in the amount of \$250,000 or in such amount as is commensurate with the Defendants wrong. Grant this Plaintiff a jury trial and appointment of counsel.

#### ATTESTATION and Signature

I, MORESETTA C. SMART do hereby verify certify under the penalty of perjury that the information given on the preceding pages is true and correct to the best of my knowledge, understanding and belief.

Respectfully submitted on this  
7<sup>th</sup> day of Nov. 2014

Moresetta C. Smart

Moresetta C. Smart 11-7-2014

1527 27<sup>th</sup> St. NW  
Canton OH 44709  
234-203-6593